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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

AMERIPRIDE SERVICES, INC., d/b/a
AMERIPRIDE LINEN AND APPAREL
SERVICES,

Plaintiff,

V.

JON J. LEIDEL, et al.,

Defendants.

Case No. 04-4007-JAR

ORDER GRANTING DEFENDANTS' MOTION TO DISMISS

This matter comes before the Court on defendant the United States’ motion to dismiss plaintiff AmeriPride Services, Inc.’s (“AmeriPride”) Complaint in Interpleader for lack of subject matter jurisdiction (Doc. 14). Defendant Jon Leidel has also filed a motion to dismiss (Doc. 16). The Court held a telephone hearing on August 30, 2004, at which time it made oral rulings. For the reasons stated on the record and as supplemented below,

1. AmeriPride is entitled to interpleader if it can demonstrate present or potential
 subsection to adverse claims resulting in exposure to double or multiple liability.¹ In a
 levy proceeding, the Internal Revenue Service (“IRS”) “steps into the taxpayer’s

¹Fed. R. Civ. P. 22.

shoes”² and “acquires whatever rights the taxpayer himself possesses” in the property.³

As a result, any claim the IRS has to the money judgment is through Jon Leidel, not against him.⁴ Thus, the fundamental interpleader requirement of adverse claims to the money judgment is absent in this case.

2. Persons complying with an IRS levy are immune from liability to the delinquent taxpayer and any other person.⁵ AmeriPride’s concern about double or multiple liability from Leidel for complying with the IRS levy is unfounded.
3. As adverse claims to the money judgment do not exist and AmeriPride is shielded from liability if it complies with the levy, this is not an appropriate interpleader action. Nor do other bases for federal jurisdiction exist. Accordingly, the Court GRANTS the United States’ motion to dismiss the interpleader action (Doc. 14).
4. The Court Clerk is hereby directed to return to AmeriPride all monies heretofore deposited by AmeriPride into the registry of the Court pursuant to this Court’s Order, with interest earnings less the appropriate registry fee.
5. AmeriPride will notify the Court when it has paid the funds to the party it deems appropriate in light of this Order. At that time, the Court will enter an order denying the motions to enforce judgment pending in a related case, *Leidel v. AmeriPride*, 00-

²*United States v. National Bank of Commerce*, 472 U.S. 713, 725 (1984) (citation omitted).

³*Kane v. Capital Guardian Trust Co.*, 145 F.3d 1218, 1221-1223 (10th Cir. 1998).

⁴*Rosenheck & Co., Inc. v. United States Ex rel. IRS*, 1997 WL 460259 *2 (N.D.Okla. 1997).

⁵26 U.S.C. § 6332(e); *see also Davis v. Yellow Freight System, Inc.*, 961 F.2d 219 (10th Cir. 1992).

4184-JAR.

6. Defendant Jon Leidel's motion to dismiss (Doc. 16) is DENIED AS MOOT.

7. Each party shall bear its own costs and fees of this action.

IT IS SO ORDERED.

Dated this 30th day of August 2004.

S/ Julie A. Robinson
Julie A. Robinson
United States District Judge